

# ORDINANCE

**AN ORDINANCE TO AMEND THE CITY OF SAVANNAH REVENUE ORDINANCE OF 2003, ADDING ARTICLE S. *EXCISE TAX ON LIQUOR BY THE DRINK*, TO IMPOSE AND LEVY AN EXCISE TAX ON THE SALE OF LIQUOR BY THE DRINK AND PROVIDE FOR THE ADMINISTRATION AND COLLECTION OF SUCH TAX; TO PROVIDE AN EFFECTIVE DATE; AND TO REPEAL ANY ORDINANCES WHICH CONFLICT HEREWITH.**

**BE IT ORDAINED** by the Mayor and Aldermen of the City of Savannah, Georgia, in regular meeting of Council assembled and pursuant to lawful authority thereof, that:

The City of Savannah Revenue Ordinance for 2003 will be amended to add Article S which will read as follows:

## **ARTICLE S: EXCISE TAX ON LIQUOR BY THE DRINK**

### **Section 1. Definitions.**

The following words, terms and phrases shall, for the purposes of this ordinance and except where the context clearly indicates a different meaning, be defined as follows:

*City.* The City of Savannah and, variously, the incorporated territory of the city, wherein the City of Savannah is empowered to impose this tax by O.C.G.A. Section 3-4-130.

*Drink.* Any alcoholic beverage served for consumption on the premises which may or may not be diluted by any other liquid.

*Due Date.* The twentieth (20<sup>th</sup>) day after the close of the monthly period for which the tax is to be computed.

*Licensee.* Any person who holds a license or permit from the City of Savannah to dispense liquor by the drink for consumption on premises.

*Liquor or distilled spirits.* Any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines.

*Monthly period.* The calendar months of the year.

*Person.* An individual, firm, partnership, joint adventure, social club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, nonprofit corporation, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the city is without power to impose the tax herein provided.

*Purchase price.* The consideration received for the sale of liquor or distilled spirits by the drink valued in money, whether received in cash or otherwise, including all receipts, cash, credits and property or services of any kind or nature and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.

*Purchaser.* Any person who orders and gives present or future consideration for any liquor or distilled spirits dispensed by the drink.

*Return.* Any return filed or required to be filed by this section.

*Tax.* Any tax imposed by this section.

## **Section 2. Imposition; rate of tax.**

There is hereby imposed, and there shall be paid, a tax of three percent (3%) on the sale of liquor by the drink in the city.

## **Section 3. Collection of tax.**

Every licensee holding a license to dispense liquor or distilled spirits for consumption on premises is authorized and required to collect the tax imposed under this article from the purchasers of liquor sold by the drink within his licensed premise.

## **Section 4. Determination generally; returns; payments.**

(A) *Due date of taxes.* All amounts of such taxes collected by the licensee shall be due and payable to the Revenue Department of the City of Savannah on or before the twentieth day of every month next succeeding each respective monthly period.

(B) *Return; persons required to file; contents .* The remittance of the taxes collected under this article shall be made and a return shall be filed by every licensee with the Revenue Director showing the gross sales of liquor by the drink and the amount of tax collected or otherwise due for the period, along with such other information as may be required by the Revenue Director.

(C) *Collection fee allowed licensees.* Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state sales and use tax as provided for in O.C.G.A. 48-8-50, the "Georgia Retailers' and Consumers' Sales and Use Tax Act."

(D) *Penalty and interest for failure to pay tax by due date.* A penalty of fifteen percent (15%) is imposed for failure to pay any amount of tax when due and payable to the city, with a minimum amount of penalty due of \$25.00. Delinquent amounts

shall bear interest at the rate of one percent (1%) per month, or fraction thereof, until paid.

## **Section 5. Deficiency determinations.**

(A) *Recomputation of tax; authority to make; basis of recomputation.* If the Revenue Director is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the city by any person, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(B) *Penalty and interest for failure to pay tax.* A specific penalty of fifteen percent (15%) is imposed upon the amount of any determination. Additionally, the amount of any determination shall bear interest at the rate of one percent (1%) per month, or fraction thereof, from the due date of taxes until the date of payment.

(C) *Notice of determination; service of.* The Revenue Director shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail such service shall be addressed to the licensee at his business address as it appears in the records of the city. Service by mail is complete when it delivered by certified mail with a receipt signed by addressee.

(D) *Time within which notice of deficiency determination to be mailed.* Except in case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever shall last expire.

## **Section 6. Determination if no return is made.**

(A) *Estimate of gross receipts.* If any person fails to make a return, the Revenue Director shall make an estimate of the amount of the gross receipts of the licensee from the sale of liquor by the drink, or as the case may be, of the amount of total such receipts in this city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the Revenue Director. Written notice shall be given in the manner prescribed in section 5(C) above.

(B) *Penalty and interest for failure to pay tax.* Penalty and interest shall be applied to the estimated taxes due in the manner prescribed in section 5(B) above.

## **Section 7. Collection of unpaid tax.**

(A) *Alcohol license to dispense by the drink conditioned upon payment and remittance of tax.* As a condition for holding a license to dispense liquor by the drink,

a licensee must comply with this article and collect and remit the tax imposed in the manner prescribed. Failure to comply will subject the license to suspension of alcohol dispensing privileges as provided in Code Section 6-1208.

(B) *Action for delinquent tax.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the Revenue Director may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with penalty, interest, court fees, filing fees, and other legal fees incident thereto.

(C) *Duty of successors or assignees of licensee to withhold tax from purchase price.* If any licensee liable for any amount under this ordinance sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces a receipt issued by the Revenue Department reflecting payment in full of the amount due or a certificate stating that no amount is due.

(D) *Liability for failure to withhold.* If the purchaser of a business fails to withhold purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

## **Section 8. Credits for overpayments.**

If it is determined that a licensee has overpaid the tax imposed under this article, overpaid penalties or interest, or has paid the tax more than once, the Revenue Director may, upon filing of a claim by the licensee and audit of the claim, authorize credit of the overpayment toward the current amount of tax due and payable from the licensee. All claims for overpayments must be made by the licensee, his administrators or executors, and must be made in writing within three years from the date of payment stating the specific grounds upon which the claim is founded.

## **Section 9. Administration generally; record keeping.**

(A) *Authority of Revenue Director.* The Revenue Director or his authorized representative shall administer and enforce the provisions of this article for the levy and collection of the tax herein imposed. The Revenue Director shall have the authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the City of Savannah and the State of Georgia, for the administration and enforcement of the provisions of this article and the collection of the taxes provided herein.

(B) *Records required.* Every licensee for the sale of liquor by the drink in the City of Savannah shall preserve, for a minimum of three years, all records, receipts, invoices and other pertinent papers as the Revenue Director may require and in such form as the Revenue Director may require.

(C) *Examination of records; audits.* The Revenue Director or any person authorized in writing by him may examine the books, papers, records, financial reports, inventory, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made, to ascertain and determine the amount required to be paid.

(D) *Authority to require reports; contents.* In administering the provisions of this article, the Revenue Director may require the filing of reports by any person or class of persons having in their possession or custody information relating to the sale of liquor by the drink. The reports shall be filed with the Revenue Director when required and shall set forth the gross sales from the sale of liquor by the drink, the amount of tax collected thereon, or such other information as the Revenue Director may require.

#### **Section 10. Effective date of ordinance.**

This amendment to the Revenue Ordinance of 2003 will become effective on July 1, 2003.

So ordained this 29<sup>th</sup> day of May, 2003.

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Dyanne Reese, Clerk of Council